

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SANDRA L. PRIVITELLO,

Plaintiff,

1:14-CV-0295
(GTS/RFT)

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

SANDRA L. PRIVITELLO

Plaintiff, *Pro Se*

6 Fairview Street

South Glens Falls, New York 12803

SOCIAL SECURITY ADMINISTRATION
OFFICE OF REG'L GEN. COUNSEL—REGION II

Counsel for Defendant

26 Federal Plaza, Room 3904

New York, New York 10278

VERNON NORWOOD, ESQ.
Special Assistant U.S. Attorney

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

Currently before the Court, in this action by Sandra L. Privitello against the Commissioner of Social Security for disability benefits, is a Report-Recommendation by United States Magistrate Judge Randolph F. Treece, filed on August 10, 2015, recommending that the Commissioner's motion for judgment on the pleadings be granted, that the Commissioner's decision denying disability benefits be affirmed, and that Plaintiff's Complaint be dismissed. (Dkt. No. 17.) Objections to the Report-Recommendation have not been filed and the time in which to do so has expired. (*See generally* Docket Sheet.) After carefully reviewing all of the papers herein, including Magistrate Judge Treece's thorough Report-Recommendation, the Court

can find no clear error in the Report-Recommendation.¹ The Court would add only that (1) it has carefully weighed the factors governing a dismissal for failure to prosecute pursuant to Fed. R. Civ. P. 41(b) and finds that they weigh decidedly in favor of dismissal under the circumstances, and (2) alternatively, it has reviewed the Commissioner's unopposed motion and finds it to possess facial merit. (Dkt. No. 16.) For all of these reasons, the Report-Recommendation is accepted and adopted in its entirety; and Plaintiff's Complaint is dismissed in its entirety.

ACCORDINGLY, it is

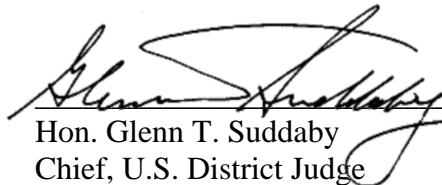
ORDERED that Magistrate Judge Treece's Report-Recommendation (Dkt. No. 17) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that the Commissioner's motion for judgment on the pleadings (Dkt. No. 16) is **GRANTED**; and it is further

ORDERED that the Commissioner's decision denying disability benefits is **AFFIRMED**; and it is further

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED**.

Dated: September 15, 2015
Syracuse, New York


Hon. Glenn T. Suddaby
Chief, U.S. District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*: see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks and citations omitted).